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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/595,038 06/15/00 VALASZKAI

L 4072-4001

EXAMINER
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QM02/0828

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NEW YORK NY 10154-0053

ART UNIT	PAPER NUMBER
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3743  
DATE MAILED:

9  
08/28/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/595,038

Applicant(s)

Valaszka et al.

Examiner

Leonard R. Leo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Jun 27, 2001

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-20 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-20 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

The amendment filed June 27, 2001 has been entered. The indicated allowability of claims 3-6 is withdrawn. Claims 1-20 are pending.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 8 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bertrand et al. The angle ( $\gamma$ ) is read as zero or 180 degrees.

Claims 1-2, 8, 11-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamiya. The angle ( $\gamma$ ) is read as zero or 180 degrees.

Claims 1-8, 11-16 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Rhodes (Figure 7C). Regarding claim 20, the similar structure of Rhodes (Figure 7C) functions in a manner similar to applicants' instant invention as claimed.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-10 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bertrand et al, Kamiya or Rhodes.

Bertrand et al, Kamiya or Rhodes discloses all the claimed limitations except the specific center-to-center distances between directing elements..

To employ a specific spacing is considered to be an obvious design expedient, producing no new and/or unexpected results and solving no stated problem. One of ordinary skill in the art would employ any spacing to achieve a desired heat exchange or pressure loss.

#### ***Response to Arguments***

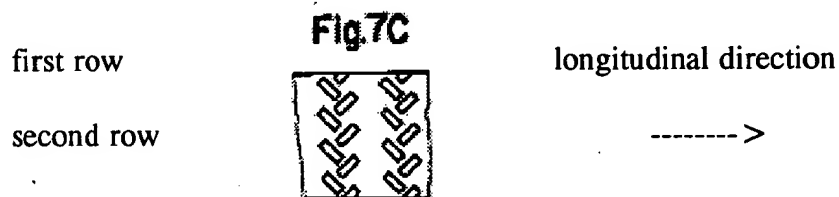
Regarding applicants' remarks with respect to Bertrand et al, the Examiner agrees that Bertrand et al discloses a plate structure. However, as clearly disclosed in Figures 1-2 and 8-9, the plate 12 forms half of a fluid conveying tube. The tube of Bertrand et al (Figure 8) is composed of two plates where the directing elements 30 from the first plate, i.e. first primary surface alternately extend toward the second plate, i.e. second primary surface.

Regarding applicants' remarks with respect to Kamiya, the Examiner agrees applicants' characterization of Figure 1 of Kamiya. However, as clearly disclosed in Figures 4(a)-(b) of Kamiya, the tube 1 has directing elements 2a, 2b alternately arranged in the longitudinal direction.

Regarding applicants' remarks with respect to Rhodes, applicants' reading of Rhodes is mistaken and incomplete. Upon further review, Rhodes discloses the limitations of claims 3-6

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as noted below. In its entirety, Rhodes discloses a fluid conveying tube for a vehicle cooler (Figure 1) having primary surfaces 120, 122 with rows of directing elements 152 alternately arranged in the longitudinal direction (Figure 3). Rhodes further discloses alternate embodiments of the directing elements in Figures 7A-G, wherein Figure 7C clearly discloses a primary surface having two consecutive groups of directing elements arranged in the longitudinal direction, i.e. from left to right. Each group includes a first row of directing elements and a second row of directing elements inclined at a given angle.



The directing elements in the second row are offset with respect to the first row. Regarding claims 9-10, there is no argument that the claimed limitations are not obvious design expedients as proposed by the Examiner.

### ***Conclusion***

Any inquiry of a general nature, relating to the status of this application or clerical nature (i.e. missing or incomplete references, missing or incomplete Office actions or forms) should be directed to the Technology Center 3700 Customer Service whose telephone number is (703) 306-5648.

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Any inquiry concerning this Office action should be directed to Leonard R. Leo whose telephone number is (703) 308-2611.

A handwritten signature in cursive script, reading "Leonard R. Leo".

LEONARD R. LEO  
PRIMARY EXAMINER  
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August 27, 2001